

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,
Plaintiff
v.
Arturo Salgado-Castro,
Defendant

2:14-cr-00151-JAD-PAL

**Order Denying Motion to Vacate, Set
Aside, or Correct Sentence**

[ECF No. 27]

Pro se federal prison inmate Arturo Salgado-Castro brings this § 2255 motion to vacate his 46-month sentence in light of the United States Supreme Court's decision last term in *Johnson v. United States*, which held the Armed Career Criminal Act's (ACCA's) residual clause void for vagueness.¹ In September 2014, Salgado-Castro pleaded guilty to being a deported alien found unlawfully in the United States and, in January 2015, he was sentenced to 46 months in prison.² Salgado-Castro argues that he is entitled to a reduced sentence under *Johnson* because illegal reentry is not a crime of violence.³

Johnson does not provide Salgado-Castro any relief because he was not sentenced as an armed career offender under the ACCA, let alone under the Act's residual clause invalidated in *Johnson*. If Salgado-Castro had been sentenced under the ACCA, he would have been subjected to a mandatory minimum term of fifteen years' imprisonment. Both Salgado-Castro's 46-month sentence and the offense of conviction belie his claim that he was adjudicated an armed career criminal under the ACCA's residual clause,⁴ and *Johnson* is therefore inapplicable.

¹ ECF No. 27; *Johnson v. United States*, __U.S.__, 135 S.Ct. 2251, 2258 (2015).

² ECF No. 25.

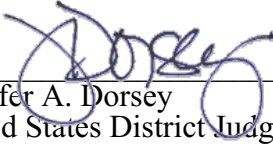
³ ECF No. 27.

⁴ The ACCA applies only to people who violate 18 U.S.C. § 924(g) and have three prior convictions for violent felonies or serious drug offenses. Salgado-Castro was convicted under 8 U.S.C. § 1326,

Conclusion

Accordingly, IT IS HEREBY ORDERED that **Salgado-Castro's motion to vacate sentence under 28 U.S.C. § 2255 in light of *Johnson v. United States* [ECF No. 27] is DENIED.**

Dated this 13th day of July, 2016.



Jennifer A. Dorsey
United States District Judge

not 18 U.S.C. § 924(g).